THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.747 of 2001

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Dated: 20.10.2005

Between:

Smt. Razia Begum W/o. Mohd. Khaja Hussain
R/o.H.No.2-6-1037, Subedari, Hanamkonda,
Warangal District, and others.

..... PETITIONERS

AND

The Municipal Corporation of Warangal, Rep. by its Commissioner
Warangal District, and another.

.....RESPONDENTS

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.747 of 2001

ORDER:

The six petitioners seek a writ of Mandamus declaring the action of the respondents, namely, the Municipal Corporation of Warangal and the Kakatiya Urban Development Authority (KUDA), in digging a canal through the petitioners' lands for widening a drain, as illegal and contrary to the provisions of the Land Acquisition Act, 1894 (for short 'the Act').

The case of the petitioners is that one late K.Chandraiah is the owner of the land admeasuring Ac.0.39 guntas in Survey No.130 situated at Lashkarsingaram Village, Hanamkonda Revenue Mandal, Warangal District. The petitioners purchased the plots from K.Chandraiah. They allege that during the intervening night of 20th and 21st August, 2000, the staff of respondent Nos.1 and 2 started digging a channel through the lands of the petitioners for the purpose of passage of water, without following due process of law and without initiating proceedings under the Act.

The learned Standing Counsel for KUDA submits that the first respondent widened the existing nala in Survey No.324, and did not in any manner interfere with the

property of the petitioners in Survey No.130. A counter affidavit is filed to that effect. A reply affidavit is filed denying the counter averments. But having regard to the fact that the issue raised, being question of fact, this Court is not inclined to decide the same. It shall be open to the petitioners to avail common law remedy by filing a suit for declaration.

In view of the same, the Writ Petition must be held to have been filed without any concern for the truth. The Writ Petition is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

20.10.2005

vs